

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PATRICIA R. FRITCHIE,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

4:12CV3114

MEMORANDUM AND ORDER

On or about June 10, 2010, at about 5:00 p.m., Patricia Fritchie was leaving the Omaha Veterans Administration Medical Center (hereinafter "VA Medical Center"), located at 4101 Woolworth Avenue in Omaha, Nebraska, when she slipped and fell in the VA Medical Center's lobby. As a result of her fall, the plaintiff sustained injuries to her right foot and ankle.

The plaintiff filed suit against the United States, alleging she "slipped and fell on the wet and soapy floor," of the VA Medical Center and landed on her right leg and side, resulting in injuries and damages. (Filing No. 1). As described in the pretrial order, the allegations of negligence included:

- iv. Whether Defendant failed to use reasonable care to protect lawful visitors, including Plaintiff against the alleged danger in the following particulars:
 - (1) Failure to use reasonable care to inspect, discover, and cure the allegedly dangerous condition of the wet and soapy floor in the VA Medical Center's lobby and exit, when the Defendant allegedly caused or at least allegedly had actual or constructive knowledge of the allegedly wet floor and the unreasonable risk of harm to the Plaintiff and other lawful business visitors, especially combined with large numbers of people walking in the area;
 - (2) Failure to keep the premises safe for the Plaintiff and other lawful business visitors to enter and exit;

- (3) Failure to train and instruct agents and employees in proper mopping techniques, including, but not limited to, how to mop, how to leave minimal water and soap on the floor, and the proper time and place to mop; and
- (4) Failure to warn the Plaintiff and other business visitors of the allegedly dangerous condition, or guard or cordon off the area.

Filing No. 43, at CM/ECF pp. 3-4.

After hearing the evidence and observing the witnesses as they testified, the court finds there was no water on the lobby floor of the VA Medical Center when the plaintiff's accident occurred, and the plaintiff did not fall due to the wet, or wet and soapy, condition of the lobby floor. The plaintiff's testimony, and that of her family members, describing the allegedly wet and slippery condition of the lobby floor and the cause of the plaintiff's accident was not credible. In contrast, the court finds the testimony of the emergency room nurse, Donna E. Hume, the testimony of Abraham Gilbert Soto, Jr., and the testimony of Officer Ericka Obner to be highly credible and fully supported by the documentation in evidence.

The plaintiff has failed to meet her burden of proving the defendant's negligence caused the plaintiff's accident and injuries.

Accordingly,

IT IS ORDERED that for the reasons stated herein and on the record at the close of the trial, judgment will be entered in favor of the defendant and against the plaintiff.

Dated this 5th day of March, 2014.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge